In the High Court of Judicature at Madras

Dated: 31/10/2003

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The Hon'ble Mr. Justice P. SATHASIVAM

Writ Petition No.5683 of 2003
and
WPMP.No.34641 of 2003

K.P. Nataraj .. Petitioner

-Vs-

1. The State of Tamil Nadu
rep. by Deputy Secretary
to the Government
Public (Political Pension) Department
Fort St. George, Chennai 600 009.

2. The District Collector
Coimbatore Collectorate
Coimbatore. .. Respondents

Petition filed under Article 226 of the Constitution of India
praying of issuance of writ of certiorarified mandamus as stated therein.

For petitioner : Ms. Vanathi Srinivasan

For respondents: Mrs. G. Kavitha
Govt., Advocate

:ORDER

By consent of both parties, the writ petition itself is taken
up for disposal.

2. Aggrieved by the proceedings of the first respondent dated
30.01 .2001, rejecting the request for sanctioning of State Freedom Fighters
Pension to the petitioner, the petitioner has filed the above writ petition to
quash the same and consequently direct the first respondent to grant Freedom
Fighter Pension to him in pursuant to the recommendation given by the second
respondent in his proceedings dated 17.02 .1999.

3. The case of the petitioner is briefly stated hereunder:

According to him, he had participated in the Freedom Movement and he was kept in Coimbatore Central Prison from 21.12.1942 to 20.03.1943 , almost for a period of three months. Pursuant to the policy of the Government, both Central and State, the petitioner had made an application for grant of Freedom Fighters pension. As per the conditions for applying Freedom Fighters Pension, the applicant has to enclose a copy of the certificate issued by the jail authority, certifying his confinement in the prison, specifically stating the period in which he was kept in custody. For the said purpose, the petitioner had made an application on 07.11.1987 to the Jail authority and he was replied by letter dated 15.11.1983, stating that as the jail records were already destroyed as per the Jail Manual, the certificate as claimed by the petitioner could not be issued, certifying his confinement in the prison. Thereafter, he made his appli cation to the State Government for sanctioning the Freedom Fighters Pension in his application dated 15.12.1983, through the District Collector. He also made another application to the Central Government on 31.12.1981 and again on 30 .09.1986. Pursuant to the application made to the District Collector, he received an intimation for his appearance before the District Committee. The petitioner appeared before the District Committee with required certificates. The petitioner had produced certificates from the Freedom Fighters, namely V.N. Arunachalam, who is getting Central Government Pension and who was lodged in Coimbatore Central Prison and Alipuram Jail in Bellary District from 14.09.1942 to 11.09.1944. The petitioner also produced another certificate from Nachipallan, who was lodged in Central Prison, Coimbatore from 29.09.1942 to 11.09.1944. After examining all the materials, the District Collector in his letter dated 17.02.1999, had written to the Deputy Secretary, Political Pension-I stating that the petitioner had given the certificate from three Freedom Fighters, who were in different Jails and also recommended to the Government for considering the claim of the petitioner. In spite of the report of the second respondent dated 17.02.1999 , earlier direction of this Court dated 01.11.2000, the first respondent by the impugned letter dated 30.01.2001, rejected the claim of the petitioner on the ground that the certificate issued by the Freedom Fighter - Nachipallan, is not in order, hence, the present writ petition.

4. Heard, Ms. Vanathi Srinivasan, learned counsel for the petitioner and Ms. G. Kavitha, learned Government Advocate for the respondents.

5. It is the specific claim of the petitioner that he participated in the Freedom Movement and he was kept in Coimbatore Central Prison as under trial prisoner from 21.12.1942 to 20.03.1943. It is also his claim that when he applied for confinement certificate from the Superintendent of Central Prison, Coimbatore, the Office in his letter dated 15.11.1983, has informed the petitioner stating that "remand registers for the year 1942-43 were destroyed as per the Jail Rules, hence the certificate requested by you could not be furnished." The said letter finds place at page 1 of the typed set of papers filed by the petitioner. In such a circumstance, the first respondent cannot insist the petitioner for production of a certificate from the Jail authority.

6. There is no dispute that as per the Scheme framed by the Central and State Government for grant of Freedom Fighter Pension, one of the

essential conditions for applying the Freedom Fighters Pension is that the applicant has to enclose a copy of the certificate issued by the Jail authority, certifying his confinement in the jail, specifically stating the period in which he was kept in custody. In the light of the letter of the Superintendent, Central Prison, Coimbatore dated 15.11.1983, the petitioner cannot be insisted for production of the certificate.

7. The other essential condition is that the petitioner has to produce co-prisoner certificates as notified by the Government. It is the claim of the petitioner that he had produced a certificate from the Freedom Fighter V.N. Arunachalam, who is getting pension as per order PPO 2147/S, who was lodged in Coimbatore Central Prison and Alipuram Jail in Bellary District during the period 14.09.1942 to 11.09.1944 . The petitioner also produced another certificate from the Freedom Fighter one Nachipallan, who was lodged in Central Prison, Coimbatore during the period 29.09.1942 to 11.09.1944, who is also getting pension from the State Government vide order No.2706/S. Unfortunately, these certificates issued by the Freedom Fighters, who were also lodged in the prison during the relevant period, who participated in the freedom struggle along with the petitioner, were not accepted by the Government, as these freedom fighters are not recognised or given in the list of 15 freedom fighters identified by the Government. Inasmuch as the two certifiers, namely, V.N. Arunachalam and Nachipallan - freedom fighters were lodged in Central Prison, Coimbatore during the relevant time along with the petitioner, I am of the view that the Government is not justified in rejecting those certificates and insisting that persons named in the list of 15 alone to be given such certificate. The petitioner has also produced copy of those certificates vide page 2 and 3 of the typed set of papers.

8. It is also useful to refer one important fact that when the petitioner made an application for grant of State Freedom Fighter Pension through the District Collector - second respondent herein, the matter was enquired by the District Committee and based on the enquiry, the District Collector forwarded his report dated 17.02.1999 to the Government, recommending the case of the petitioner for grant of State Freedom Fighters Pension. The said report finds place at page 4 and 5 of the typed set of papers. The report shows that the petitioner had obtained co-prisoner certificate from one K.P. Thiruvengadam, Nachipallan and V.N. Arunachalam, who were imprisoned in the same District. The report further states that the petitioner was a co-prisoner along with Nachipallan and V.N. Arunachalam; the said Nachipallan was getting State Freedom Fighters Pension and V.N. Arunachalam was getting pension from the Central Government. All those details are available in the report of the District Collector dated 17.02.1999.

9. In the light of the abundant materials, it is surprising that the first respondent has informed that the petitioner had not furnished details regarding his confinement and the co-prisoner certificates produced by the petitioner are not acceptable. The Government has also erroneously rejected the report of the District Collector, which is based on the enquiry made by the District Committee. The impugned order of the first respondent cannot be sustained in view of the decisions rendered in W.P.No.19152 of 1996

dated 21.01.2000 (PSJ), W.P. Nos.15465, 15596 of 2001 dated 12.03.2002 (VKJ), which was affirmed by the Division Bench in W.A.Nos.2142 & 2143 of 2003 dated 01.07.2003.

In the result, the impugned order of the first respondent dated 30.01.2001, is quashed. The first respondent - Government is directed to grant State Freedom Fighters Pension to the petitioner from 30.01.2 001 (when the first respondent passed the impugned order rejecting his request for State Freedom Fighters Pension), based on the recommendation of the District Collector made in e/f/xs2/31962/97 dated 17.02.1999, freedom fighter's certificates dated 03.12.1983, 03.03.1986 and the letter from the Superintendent, Central Prison, Coimbatore dated 15.11.1983. The order as directed above shall be passed within a period of four weeks from the date of receipt of a copy of this order. The writ petition is allowed. No costs. Consequently, connected WPMP., is closed.

Index:Yes
Internet:Yes
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To
1. The Deputy Secretary
to the Government
State of Tamil Nadu
Public (Political Pension) Department
Fort St. George, Chennai 600 009.

2. The District Collector
Coimbatore Collectorate
Coimbatore.

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